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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,169	03/17/2004	Thomas J. Bachinski	12929.1146US01	4145
7590 Merchant & Gould P.C. P.O. Box 2903 Minneapolis, MN 55402-0903		05/02/2007	EXAMINER PELHAM, JOSEPH MOORE	
			ART UNIT 3742	PAPER NUMBER
			MAIL DATE 05/02/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/803,169

Applicant(s)

BACHINSKI ET AL.

Examiner

Joseph M. Pelham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-18 and 26-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17,18 and 26-33 is/are allowed.
- 6) ☒ Claim(s) 1,3-11 and 13-16 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

The Examiner acknowledges Applicant's submission of the amendment filed 2/13/07. Claims 1, 3-18, and 26-33 are now pending.

Claim Rejections - 35 USC § 103

Claims 1, 4, 5, 7, 9, and 14 are under 35 U.S.C. 103(a) as being unpatentable over US Pat. 6271504 in view of US Pat. 4242554..

Referring to Figs. 1-4 and col. 3, line 21, through col. 4, line 49, US'504 discloses a cooking assembly comprising a "main body portion" 6, first grill 150 and second 43 heating surfaces, a first contoured heating element 105 above a "steel" reflective member, a second heating element embedded in the second heating surface, and a first hood member 80.

The claims differ from US'504 only in calling for directing power to only the first or only the second heating element at a given time. Referring to the abstract and col. 9, lines 24-31, US'554 discloses a cooking device with two means for heating food items, and directing power to only the first or only the second heating element at a given time. It would have been obvious to adapt the power control means of US'554 to the cooking device of US'504, since US'554 teaches such to be appropriate where a "limited power source" prevents simultaneous operation of the two heating sources.

Claims 1, 3-11, and 13-16 rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. 6437291 in view of US'554 and US Pat. 6037571.

US'291 discloses first grill 27 and second 25 cooking surfaces with embedded heater, the second being a "hot plate cooking surface" which is conventionally "cast" of an aluminum alloy by reason of its excellent thermal conductivity, first 16 and second 17 hood members, and a single 110 V power source. A metallic member, "reflector," is conventionally placed beneath such heating elements to direct heat toward the food item (claim 5), and a 1000-1400 W second heating element is also well within the range of power ratings used in domestic cooking devices, hence both would be obvious to the artisan and do not patentably distinguish the claimed invention from the prior art. The claims differ substantively from US'291 only in calling for directing power to only the first or only the second heating element at a given time, and a refrigerator "stand" for the device..

US'571 discloses, at Fig. 1 and col. 3, lines 23-37, two adjacent, independently controlled heating means, "back burner" 40 and "front burner" 50, in an outdoor cooking grill, and a cabinet "stand." Referring to the abstract and col. 9, lines 24-31, US'554 discloses a cooking device with two means for heating food items, and directing power to only the first or only the second heating element at a given time.

It would have been obvious to adapt the two independently controlled grill heating means of US'571 to the grill of US'291 to enhance cooking versatility, and to utilize the power control means of US'554 since US'554 teaches such to be appropriate where a "limited power source" prevents simultaneous operation of the two heating sources. Moreover, a refrigerator cabinet does not patentably distinguish the claimed

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invention from the prior art. It would have been obvious to replace the cabinet with a refrigerator for convenient storage of foods to be cooked. While US'571 does not explicitly disclose a light, this would have been an obvious adjunct commended by its necessity while cooking during or after the twilight evening hours.

Allowable Subject Matter

Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 17, 18, and 26-33 are allowed.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

The Examiner notes, however, with respect to Applicant's argument that the teaching of US'571 is directed to two power sources rather than independently controlled heating elements, US'571 does teach independently controlled grill heating elements, and that it also discloses two power sources does not mitigate the relevance and advantage of the independent heaters, which heat two distinct regions of the grill surface, the front and the back.

When replying to this Office action, Applicant is urged to review the prior art cited but not applied, which is pertinent to the use of only one of a plurality of alternative heating sources.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph M. Pelham whose telephone number is 571-272-4786. The examiner can normally be reached on M-F 8:30 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

4/24/07 

JOSEPH PELHAM
PRIMARY EXAMINER